



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

COPY MAILED

DEC 23 2004

OFFICE OF PETITIONS

In re Application of
Allan, et al.
Application No. 09/784,962
Filed: February 16, 2001
Attorney Docket No: 454313-2338.1

:
:
: ON PETITION
:
:

This is regarding the "Petition to Revive and Waive Rules" filed November 9, 2004. The petition will be treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed oath or declaration.

The petition is dismissed as moot.

Petitioner has requested that the Declaration and Power of Attorney filed with the petition be accepted as if it were filed when a correct Declaration and Power of Attorney should have been filed during prosecution of the patent application. Petitioner makes this request because it is alleged that the signatures of some of the inventors were falsified on the originally filed declaration.

While the facts of the petition are noted, a review of the application history did not reveal any error in the prosecution, relative to the oath or declaration, that could be remedied by the filing of a petition under 37 CFR 1.137(b). More specifically, no Office communication was issued requiring the filing of a properly executed oath or declaration such that the subsequent failure to file a declaration with the true signatures of the inventors would have resulted in abandonment of the application justifying the filing of a petition under 37 CFR 1.137 at this juncture. The instant petition is, therefore, moot.

Notwithstanding the aforementioned, the declaration filed with the instant petition can be made a part of the record as a supplemental declaration filed pursuant to 37 CFR 1.67 which allows for the filing of a supplemental declaration to correct deficiencies or inaccuracies present in an earlier filed application. The declaration filed November 19, 2004, is noted as a supplemental declaration pursuant to 37 CFR 1.67, accordingly. The petition fee of \$130.00 will be refunded via treasury check.

The application file will be directed to Technology Center 1600 for further processing.

Telephone inquiries regarding this matter should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions